

WELCOME TO THE ETHICS COMMISSION MEETING

Please sign in at the testimony table.

As a courtesy, please silence your cell phone.



Date: November 13, 2019
Time: 11:30 a.m.
Place: Kapālama Hale
925 Dillingham Boulevard
Conf. Rm. 153, 1st Floor

ORDER OF BUSINESS

I. Call to Order, Public Notice, Quorum



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II. NEW BUSINESS

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution
 - a. Staffing – Legal Clerk III (TA)
 - Request that Commission delegate to Chair ability to review/approve hire of LCIII at rate above budgeted amount



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II.A. CHAIR'S REPORT

2. For Action: Approval of Open Session Minutes of October 16, 2019
3. For Action: Approval of Executive Session Minutes of October 16, 2019

(exec sess. HRS §92-5(a)(4), as needed)



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II.A. CHAIR'S REPORT

4. For Action:

Nomination, vote for Chair, Vice Chair –
Calendar Year 2020



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II.B. EXECUTIVE DIRECTOR AND LEGAL COUNSEL'S (EDLC) REPORT

1. Staff Work Reports Summary

- Legal Clerk III (TA)
- Investigator
- Associate Legal Counsel



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II.B.1. STAFF WORK REPORTS–HIGHLIGHTS LEGAL CLERK III (TA)

- Prepping meeting minutes, materials; processing intake, UIPA requests, disclosures, other forms
- Processing pCard
- Assisting investigations
- Managing front-office, phones, inventory
- Assisting with newsletter, training, outreach
- Finalizing procedures, filing for transition



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS INVESTIGATOR

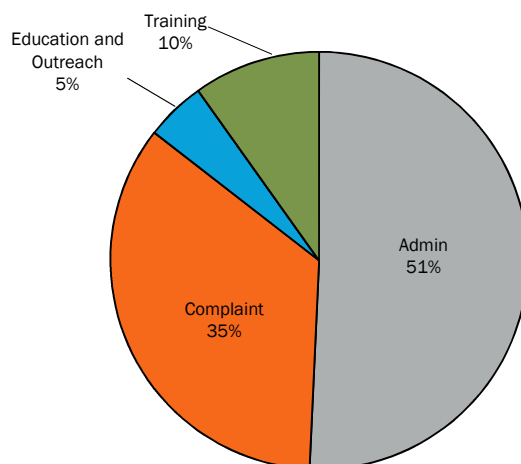
- Managing case load, attending case management meetings
- Assisting with case processing, procedures
- Assisting with Twitter, newsletter, online training, outreach
- Assisting with admin functions, as needed



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II.B.1. STAFF WORK REPORTS SUMMARY INVESTIGATOR



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II.B.1. STAFF WORK REPORTS - HIGHLIGHTS ASSOCIATE LEGAL COUNSEL

- Training/outreach – new biennium curriculum done, working w/ IT to launch, finalize public interface; newsletter; Twitter content; other
- Legal research, handling requests for legal advice
- Leading case management meetings; creating case SOPs, templates, Adv. Opin. compendium index
- Investigating, prosecuting cases, training INV, LC III
- Conducting multi-jurisdictional research
- Assisting with admin functions, as needed



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II.B.2 STATISTICS

a. Website Sessions

- October 2019 – 431



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program (FY19–FY20)

- Biennial online curriculum, launch pending
- DIT finalizing platform to host board, commission member training for non-domain (private) users, launch pending



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II.B.4 EDUCATION AND OUTREACH (cont'd)

- b. Twitter – article on Twitter banning political advertisements
- c. E-Newsletter
 - November 2019 – holiday gifts edition pending discussion in agenda item II.B.7.



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II.B.4 EDUCATION AND OUTREACH (cont'd)

- d. Integrity Hotline for City & County of Honolulu Employees – Update
 - Access to hotline from city computer
 - Access to hotline from the outside



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II.B.5. LEGISLATION – CITY ETHICS LAWS

d. For Discussion:

City ethics laws

- i. Clarify who can initiate a complaint
- ii. Clarify definition of “confidential”

(exec sess. HRS §92-5(a)(4), as needed)



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II.B.5. LEGISLATION – CITY ETHICS LAWS

Revised Charter of Honolulu (RCH) - § 11-107

Revised Ordinances of Honolulu (ROH)

§ 3-6.3(j)

§ 3-6.7(a)

§ 3-6.11

§ 3-6.12



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II.B.6. EDUCATION OPPORTUNITIES

- a. Council on Governmental Ethics Laws (COGEL)
41st Annual Conference (Dec. 15-18, 2019),
Chicago Marriott Downtown, Chicago, IL
- 2 Commissioners, 2 staff attending
 - Social Media Session – no panel
 - Innovations – Ethics Learning Management System (LMS)



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II.B.7. REQUEST FOR FORMAL ADVISORY OPINION

For Discussion and Action:

Should the Gift Guidelines be amended to prohibit city officers, employees from accepting gifts from persons doing business with their city agency, regardless of the value of the gift (i.e., reconsider exceptions allowing acceptance of tokens of aloha, gifts of relatively small value)

(exec sess. HRS §92-5(a)(4), as needed)



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V.A. STRATEGIC PLANNING – EC 2027

1. For Discussion and Action:

Delegation of authority by the EC to
EC's investigator to self-initiate
investigations on behalf of the EC

(exec sess. HRS §92-5(a)(4), as needed)



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V.A. STRATEGIC PLANNING – EC 2027

2. For Discussion and Action:

Community Outreach Plan (DRAFT);
whether the EC may form a permitted
interaction group (PIG) for community
outreach, media response

(exec sess. HRS §92-5(a)(4), as needed)



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IV. EXECUTIVE SESSION

- a. For Discussion:
May the Commission:
 - i. Create a PIG for community outreach and media response
 - ii. Delegate 1 commissioner to speak on behalf of the Commission*(exec sess. HRS §92-5(a)(4), as needed)*



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VI. ADJOURNMENT

- A. For Discussion:

Reconsider proposed scheduled
meeting date:

June 17, 2020



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2020 MEETING DATES (PROPOSED)

Scheduled Meeting Dates	Reserved Meeting Dates
	January 15, 2020
February 19, 2020	March 18, 2020
April 15, 2020	May 20, 2020
June [17] __, 2020	July 15, 2020
August 19, 2020	September 16, 2020
October 21, 2020	November 18, 2020
December 16, 2020	



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VI. ADJOURNMENT

Next reserved meeting date: Jan. 15, 2020

Next scheduled meeting date: Feb. 19, 2020



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VI. ADJOURNMENT

Aloha and Mahalo for Attending

Website: www.honolulu.gov/ethics Email: ethics@honolulu.gov

 Twitter: @HonEthicsComm



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ADJUDICATORY MATTER

1. EC Nos. 14-284-A and 14-284-B

(not part of sunshine meeting)



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**Agenda Item II.B.4.b.,
Page 2
[Star-Advertiser Article on
Twitter]**

Thursday, October 31, 2019 | [Today's Paper](#) | 73°

TOP NEWS

Twitter bans all political advertisements

By Associated Press • Oct. 30, 2019 • Updated 1:45 p.m.

SAN FRANCISCO >> Twitter is banning all political advertising from its service, saying social media companies give advertisers an unfair advantage in proliferating highly targeted, misleading messages.

"While internet advertising is incredibly powerful and very effective for commercial advertisers, that power brings significant risks to politics, where it can be used to influence votes to affect the lives of millions," Twitter CEO Jack Dorsey said today in a series of tweets announcing the new policy.

Facebook has taken fire since it disclosed earlier in October that it will not fact-check ads by politicians or their campaigns, which could allow them to lie freely. CEO Mark Zuckerberg told Congress last week that politicians have the right to free speech on Facebook.

The issue suddenly arose in September when Twitter, along with Facebook and Google, refused to remove a misleading video ad from President Donald Trump's campaign that targeted former Vice President Joe Biden, a leading Democratic presidential candidate.

In response, Democratic Sen. Elizabeth Warren, another presidential hopeful, ran her own ad on Facebook taking aim at Zuckerberg. The ad falsely claimed that Zuckerberg endorsed President Donald Trump for re-election, acknowledging the deliberate falsehood as necessary to make a point.

Critics have called on Facebook to ban all political ads. These include CNN chief Jeff Zucker, who recently called the company's policy of allowing lies "absolutely ludicrous" and advised the social media giant to sit out the 2020 election until it can figure out something better.

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Google and Facebook did not have immediate comments on Twitter's policy

change.

Montana Gov. Steve Bullock, another Democratic 2020 contender, retweeted Dorsey's announcement, adding the comment, "Good. Your turn, Facebook."

Dorsey said the company is recognizing that advertising on social media offers an unfair level of targeting compared to other mediums. It is not about free expression, he asserted.

"This is about paying for reach. And paying to increase the reach of political speech has significant ramifications that today's democratic infrastructure may not be prepared to handle," he tweeted. "It's worth stepping back in order to address."

Twitter currently only allows certified campaigns and organizations to run political ads for candidates and issues. The latter tend to advocate on broader issues such as climate change, abortion rights and immigration.

The company said it will make some exceptions, such as allowing ads that encourage voter turnout. It will describe those in a detailed policy it plans to release on Nov. 15.

Federal campaigns are expected to spend the majority of advertising dollars on broadcast and cable channels during the 2020 election, according to advertising research firm Kantar, and about 20% of the total \$6 billion in spending on digital ads.

Twitter's policy will start on Nov. 22.

Agenda Item II.B.5.d.,

Page 2

**[Revised Charter of Honolulu
& Revised Ordinances of
Honolulu (excerpts only)]**

Item II.B.5. Legislation

Revised Charter of Honolulu (RCH), Revised Ordinances of Honolulu (ROH) (excerpts only)

RCH Section 11-107. Ethics Commission –

There shall be within the department of the corporation counsel for administrative purposes only an ethics commission which shall consist of seven members. The commission shall be governed by the provisions of Section 13-103 of this charter. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter, but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of the executive director and any staff attorneys of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article of the charter and shall have the powers provided in Section 13-114 of this charter.

The commission may, on its own initiative, render advisory opinions with respect to this article of the charter. An advisory opinion shall be rendered

pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation.

* * * * *

ROH Sec. 3-6.3 Powers, duties and functions. *[paragraph (j) only]*

(j) The commission may disclose the name of any officer or employee who has been determined by the commission, following investigation and a hearing or opportunity for a hearing, to have violated any of the provisions of Article 8 of this chapter or of Article XI of the revised charter in accordance with HRS Chapter 92F.

* * * * *

ROH Sec. 3-6.7 Complaints. *[paragraph (a) only]*

(a) Any person may submit a written complaint to the commission, which shall be signed by the complainant. The complaint shall relate to an actual situation and shall set forth the pertinent facts if known, including the names of those involved and the nature of the alleged acts or omissions. The commission shall not consider any complaint that is not submitted in writing and signed by the complainant, except that it may consider one initiated by the commission.

* * * * *

ROH Sec. 3-6.11 Definitions.

As used in this article:

“Advisory opinion” means a written or oral response by the commission or its staff to a request for advice or a complaint.

“Complaint” means a written statement of facts or allegations giving rise to a reasonable inference that a violation of the standards of conduct by an officer or an employee has occurred, which statement is either: (1) submitted to the ethics commission by a person other than the person whose conduct is in question; or (2) initiated by the commission, based on written or non-written information.

“Employee” means the same as defined in Revised Charter Section 13-101.3 and shall include employees of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Formal advisory opinion” means a written opinion in response to a request for advice or a complaint approved by an affirmative vote of the majority of the entire membership of the commission.

“Officer” means the same as defined in Revised Charter Section 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Request for advice” means a written or oral request to the commission for an opinion whether the conduct of an officer or employee would be a violation of the standards of conduct.

“Standards of conduct” means the provisions regarding ethical conduct stated in Article XI of the Revised Charter and Article 8 of this chapter.

* * * * *

ROH Sec. 3-6.12 Confidentiality of commission records.

(a) All advisory opinions, files, records, reports, writings, documents, exhibits, electronic records and other information prepared or received by the

commission or its staff or consultants relating to a request for advice or a complaint shall be held in confidence and no information as to the contents thereof shall be disclosed, unless such disclosure is:

- (1) The result of the information being presented to or received by the commission at a hearing or meeting that is open to the public;
- (2) Ordered by a court of competent jurisdiction;
- (3) Reasonably required by the commission, its staff or consultant to investigate or otherwise discharge its duties regarding the request for advice or the complaint, including but not limited to providing information to the appointing authority or council, in the case of a councilmember, in support of the commission's advisory opinion and recommended disciplinary action, unless otherwise protected by law. If disciplinary action is taken against an employee, the employee's exclusive representative shall also be entitled to the information, unless otherwise protected by law; or
- (4) Allowed or required by applicable law.

(b) Any commission member, commission staff member or consultant who discloses information related to a request for advice or complaint, unless disclosure is allowed pursuant to subsection (a), shall be subject to the applicable provisions of Section 11-106 of the Revised Charter and Section 3-8.5.

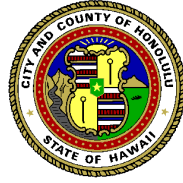
(c) The disclosures of conflicts of interests as provided in the Revised Charter shall be made matters of public record at any time that such a conflict becomes apparent.

**Agenda Item V.A.2.,
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[DRAFT Community
Outreach Plan]**

ETHICS COMMISSION

CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

Media Policy

June 20, 2018

Policy

One of the primary roles of the Honolulu Ethics Commission is to maintain and improve public confidence in government officials and employees. One of the ways in which it fulfills this role is by communicating with the public through the news media. The purpose of a news release from the Commission is to summarize and communicate to the public the important positions or actions taken by the Commission, as well as their impact on the public and the integrity of city government and city officials. In response to media queries, the Commission will strive at all times to convey accurate information while maintaining required confidentiality.

Procedure

The following procedures will be followed as reasonably practicable:

1. Media interaction will aim to educate and inform the public and city workforce about the City ethics program, including the standards of conduct governing the work of City officers and employees, ethics training, legislation, statistics, and Commission priorities.
2. In news releases about formal advisory opinions and findings, staff should refrain from interpreting the opinions and findings. However, it is permissible to extrapolate from advisory opinions or findings of the Commission to comment on how those opinions or findings may affect future hypothetical situations.
3. All media enquiries should be directed to the Executive Director/Legal Counsel ("EDLC"). The EDLC will respond in the normal course. At the earliest reasonable opportunity, the EDLC will inform Commission members by email of the content of comments made to the media. To avoid confusion and potentially contradictory information, Commission members and staff should not communicate with media on behalf of the Commission. However, Commission members and staff are permitted to comment publicly in their individual capacities.

4. Comments in a news release shall be attributed to either the Commission or Commission staff, as consistent with the statement being reported.
5. All written media communications shall be sent to the following, in order:
 - Ethics Commission members
 - Complainant(s) and respondent(s), if applicable
 - City administration (mayor, managing director, cabinet)
 - Councilmembers
 - Media
 - Members of the public who have asked to receive Commission news releases
 - Departmental administrative service officers
 - Other requestors

Letter: Cataluna misleads on work of mayor, city

Oct. 4, 2019

It appears Lee Cataluna is deliberately attempting to mislead the public with her almost daily missives regarding the city and Mayor Kirk Caldwell.

In her latest column ("[Sweep leaves beach clean only a matter of hours," Star-Advertiser, Oct. 2](#)) Cataluna derides the city's recent enforcement action against illegal campers at Kuilei Cliffs by stating the mayor "can do nothing about intransigent squatters." If Cataluna had reached out to the city, she would have learned about a new effort to work with volunteer groups to activate park areas and immediately report new encampments to police.

In the same column, Cataluna also said the mayor is developing the shoreline at Waimanalo by building a playfield. In truth, there is no shoreline development, as the playfield is on the mauka side of Waimanalo Bay Beach Park and the mayor has stated repeatedly the project will stop after the playfield is finished.

Andrew Pereira

Communications director for Mayor Kirk Caldwell

City and County of Honolulu

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Ethics Commission Community Outreach Plan

Draft 7/20/19

Note: Topics, Venues and Authors/Speakers to be matched.

Goals

- To communicate the role, scope and limitations of the Ethics Commission
- To reassure the public that the commission will do the right thing
- Increase visibility of the commission which hopefully will result in an increased budget to perform duties

Possible Topics

- Proposed Strategic Plan
- General information on the Commission's Duties
- Specific facts about Chuck Totto case
- Update on pending Kealoha matters
- Update on Lincoln Ashida, Barbara Petrus matters
- Streamlining of lobbyists filing

Possible Venues

- Letter to the Editor – Star-Advertiser, Civil Beat, PBN, Hawaii Business
- Opinion Piece – Star-Advertiser, Civil Beat, PBN, Hawaii Business
- Editorial Board meeting - Star-Advertiser, Civil Beat, PBN, Hawaii Business
- PBS - Insights
- Segment on television morning shows
- Online responses
- Speakers Bureau – such as Rotary Clubs, Lions Clubs, Soroptimists, etc.
- Our website
- Our newsletter
- A letter to those who have filed complaints

Authors/Speakers

- Jan as head of staff
- Victoria Marks as Chair
- Mike Lilly as Vice Chair
- Riki Mae Amano as a longstanding commissioner
- All commissioners